

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1, 2, 4-6, 9, 27 and 28 are in the case. Subject matter cancelled in this amendment has been deleted without prejudice to the possibility of pursuing that subject matter in a separate continuing application.

I. THE INTERVIEW

At the outset, the undersigned wishes to thank the Examiner (Mr. Hendricks) for kindly agreeing to conducting an interview in this application. The interview was conducted by telephone on September 9, 2003 and the courtesies extended by the Examiner during the interview were most appreciated. The substance of the interview will be clear from the comments presented below.

II. THE ANTICIPATION REJECTIONS

Claims 1-2, 8-11 and 27 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Yatka et al. The rejection is respectfully traversed.

In order to reduce the issues in this case and expedite favorable consideration, claim 1 has been amended claim an edulcorating soluble composition in the form of a powder "consisting essentially of" from 50 to 98% by weight of inulin and from 0.2 to 50% by weight of at least one "synthetic" sweetener. Claims 8, 10 and 11 have been canceled without prejudice, and new claim 28 is presented to the synthetic sweeteners exemplified at page 3, line 10. No new matter is entered.

Yatka does not anticipate the invention as now claimed. Yatka describes chewing gum products containing oligofructose, which may be able to encapsulate, agglomerate or entrap/absorb flavors and high intensity sweeteners, including aspartame, alitame, cyclamic acid and its salts, saccharine and its salts, etc. (column 6, line 44 onwards). However, Yatka does not disclose compositions in powder form consisting essentially of inulin and a synthetic sweetener. The working examples of Yatka disclose chewing gum compositions containing aspartame in combination with sugar and/or other natural bulk sweeteners, as for example palatinose, sucrose, dextrose, lactose, maltose, fructose, corn syrup solids, sorbitol, mannitol, xylitol, maltitol, palatinit and hydrogenated starch hydrolyzates. No disclosed chewing gum formulation contains inulin together with a synthetic sweetener as the only sweetening agent.

The Examiner states that "at several passages throughout the reference, the *initial co-drying* of the oligofructose such as Raftiline/inulin, with the additional sweetener such as aspartame is disclosed, thus producing a powder composition *before* incorporation into the chewing gum. In fact, several passages provide for 'isolating the oligofructose bulk sweeteners from other chewing gum ingredients..." (emphasis in the original).

With respect, this is not correct. Yatka discloses the "initial co-drying" of the oligofructose with bulk-sweeteners only (see col. 6, lines 11 to 33 and 54 to 66). As noted earlier, when Yatka refers to high intensity sweeteners, this is only in the context that the oligofructose "may be able to encapsulate, agglomerate or entrap/absorb flavors and high intensity sweeteners, including aspartame, alitame, cyclamic acid and its salts, saccharine and its salts..." (column 6, line, 44 onwards). In other words, Yatka

SENECI
Appl. No. 09/859,518
September 12, 2003

does not disclose a powder formulation consisting essentially of inulin together with only synthetic sweetners.

For all of the above reasons, it is clear that Yatka does not anticipate claim 1 as now amended. Reconsideration and withdrawal of the outstanding anticipation rejection based on Yatka are accordingly respectfully requested.

III. CLAIM AMENDMENTS

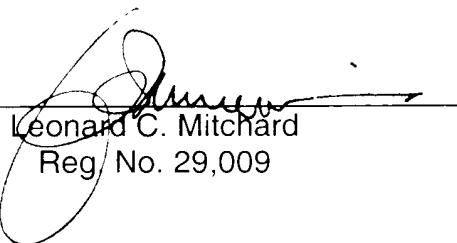
As noted earlier, claim 1 has been amended to replace "containing" by "consisting essentially of", and the sweetners have been limited to "synthetic" sweetners. Claims 8, 10 and 11 have been canceled without prejudice. New dependent claim 28 is based on the disclosure at page 3, line 10. The number of claims has not been increased, no new issues are raised, and no new matter is entered. Entry and favorable consideration of the claims as amended, together with new dependent claim 28, are accordingly respectfully requested.

Allowance of the application is awaited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Leonard C. Mitchard
Reg. No. 29,009

LCM:lfm
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100